vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4877 OF 2007

Central Hindu Military Education
Society & Ors. ... Petitioners

V/s.

Prof.Rajendra Popatrao Patil & Anr. ... Respondents

Mr.M.S. Karnik for Petitioners
Mr.C.R. Sadasiva with Mr.N.M. Ganguli for Respondent No.1

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JULY 13, 2007**

P.C.:

. This petition challenges the order of the College Tribunal dated 26.4.2007. By this order, the appeal filed by the respondent has been allowed and the Petitioners have been directed to reinstate the Respondent with continuity of service and backwages from the date of termination of service i.e., 6.11.2006.

2. The Respondent is terminated from service after holding an enquiry since he and his colleagues attended a Seminar wearing black bands. This Seminar was a prestigious occasion for the petitioners and according to the petitioners, the respondent had committed a misconduct by attending the Seminar wearing black bands. The Tribunal has found that the charges levelled were vague and no misconduct has been committed. Attending a

function wearing a black band would not constitute a misconduct under the Rules applicable according to the Tribunal. The charges against the respondent were inter alia of insubordination and neglect of duty. These charges were held by the Tribunal as not proved and, therefore, the Tribunal came to the conclusion that the Respondent did not commit any misconduct.

3. Mr.Karnik, appearing for the petitioners, submits that if the Tribunal found that the charges were vague and not framed properly, the matter should have been remanded to the Enquiry officer in view of the judgment of the Supreme Court in the case of *Vidya Vikas Mandal v/s. Education Officer & Anr.*, **2007(3) Mh.L.J.801**. The Supreme Court has held that in a case where an enquiry report has been given only by two members and not the third member, the Tribunal ought to have sent the matter back for a report from all the three members. In my view, this case is not applicable to the facts of the present case. The Tribunal has found that the charges are not proved and, therefore, has committed no error in allowing the appeal. There is no infirmity in the order of the Tribunal requiring interference under the writ jurisdiction of this Court.

4. Petition rejected.